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C O N F I D E N T I A L SECTION 01 OF 02 ANKARA 001503

SIPDIS

DEPARTMENT FOR EUR/SE

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TAGS: [PGOV](#) [PREL](#) [PHUM](#) [TU](#) [OSCE](#)

SUBJECT: LAWYERS GROUPS OPPOSE NEW PRISON-RELATED
LEGISLATION

Classified by Polcouns John Kunstadter; reasons 1.5 b and d.

11. (C) Summary: Attorneys from the Ankara Bar Association (ABA) and Contemporary Lawyers Association (CLA) argue that a newly adopted package of prison-related laws holds attorneys responsible for hunger strikes, places hunger striking prisoners at risk, undermines the right of attorneys to consult with jailed clients, and establishes draconian penalties for damaging prison property. The ABA is planning to challenge the laws as unconstitutional. End Summary.

12. (U) ABA and CLA officials told Poloff March 5 they strongly oppose a set of Turkish Penal Code amendments passed in Parliament February 5. ABA President Semih Guner said he is lobbying for the support of the one-fifth of Parliament (110 MPs) required to challenge a law in the Constitutional Court. If he is not able to organize a challenge by the April 10 deadline, he plans to appeal to the European Court of Human Rights.

13. (U) The following is a summary of the controversial elements of the amendments, followed by ABA/CLA analysis:

14. (C) Prisoner Nourishment: Anyone who prevents a prisoner from taking nourishment, including by encouraging hunger strikes or death fasts, is subject to a sentence of 10-20 years imprisonment if the prisoner dies as a result. If the prisoner suffers bodily harm, the perpetrator is subject to six months to 10 years imprisonment, depending on the nature of the injury.

-- ABA/CLA Analysis: This law is aimed at attorneys, who would be the most likely suspects to be accused of encouraging hunger strikes. For the first time, attorneys will be held legally responsible for prisoner hunger strikes.

15. (C) Interfering in Hunger Strikes: Prisoners who refuse nourishment are to be warned of the physical consequences by a prison doctor. Prison psychologists will try to dissuade prisoners from continuing such behavior. If the behavior continues and becomes life threatening, prison doctors are authorized, without the consent of the prisoner, to conduct medical examinations or feed the prisoner through an IV, or transfer them to a hospital for such purpose. In case of emergency, these measures can be carried out by non-medical prison officials if no doctor is available.

-- ABA/CLA Analysis: Before this law, only qualified medical experts generally interfered with hunger-striking prisoners. Now this authority is awarded to unqualified prison doctors, or even non-medical personnel in emergencies. This is dangerous -- in Istanbul recently, a striking inmate died after a prison doctor began feeding him with an IV.

16. (C) Lawyers' Files: Prison security officials are not to examine documents and files that a defense lawyer has declared in writing are legal papers related to a case.

-- ABA/CLA Analysis: This appears positive, but in practice is harmful. A number of attorneys have complained that prison officials are checking attorneys' declarations, then examining their papers for any discrepancies. In some cases, security officials with little understanding of legal issues are unjustly accusing attorneys of filing false declarations. Papers are being examined either when an attorney enters a prison, or when a prisoner returns to his cell after meeting his attorney.

17. (C) Prison Property: Prisoners who destroy prison property are subject to a minimum of three years imprisonment.

-- ABA/CLA Analysis: Dramatically increases the penalty for such behavior. Previously, most such cases resulted in fines or administrative punishments, with the maximum penalty limited to one year imprisonment. A CLA attorney said one of his clients last year broke a window and was not allowed to see visitors for two months; under this law, he could have gotten three years imprisonment or more.

PEARSON